

REMARKS

Claims 1-25 remain in the application for further prosecution.

Claim Rejections - 35 U.S.C. §§ 102 and 103

Claims 1, 4-5, 8-11, 14-15, 18-22 are rejected under 35 U.S.C. 102(e) as being anticipated by U.S. Publication No. 2004/0063483 (Wolf). Claims 2-3, 12-13, 24-25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wolf in view of U.S. Publication No. 2003/0153383 (Baerlocher). Claims 6-7, 16-17, and 23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wolf in view of U.S. Patent No. 5,833,536 (Davids).

The present application relates to a video poker game which facilitates identification of a winning hand to a player. For example, claim 1 relates to a method of conducting a video draw poker game. The poker game defines a plurality of award-winning rankings and awards associated with the rankings. After dealing a plurality of playing cards into a hand, the method distinguishes the winning ones of the cards that yield the award-winning ranking from other ones of the cards **if and only if** the dealt hand has one of the award-winning rankings. If the hand does not qualify for an award-winning ranking, no cards are distinguished.

The present application differs from auto-hold strategies that determine optimal cards to hold in either winning or potentially winning hands. For example, the specification explains "the auto-hold feature tends to annoy players. If a player disagrees with the automatically held cards, the player must unhold those cards and then hold the cards the player wishes to hold." (¶ 004). Rather than determining hold card strategy to improve possibilities of either potential winning hands or improving winning hands, the present application merely identifies already winning hands for the convenience of a player. There is no strategy involved in determining the optimal cards to hold as either the hand is a winning hand triggering the hold feature or the hand does not meet a winning criteria and the hold feature is not triggered.

In contrast, Wolf discloses just such a gaming device 10 that incorporates an auto-hold strategy automatically determining the mathematically optimal or best cards 35 to hold for all possible hands. Wolf displays this suggestion 33 to the player and, in some embodiments, automatically holds these cards 35 for the player. The player may choose to hold the cards 35 selected by the gaming device 10 or select other or no cards 35 to hold. The player then presses

the deal button 20 and the unwanted cards 35 are removed from the display 30 and the replacement cards 35 are dealt from the remaining cards in the deck. *See* Wolf, ¶033. The player may choose from two or more hold strategies to apply to the game. *See* Wolf, ¶044. Unlike the present claims which do not make a strategic determination, the Wolf hold strategies evaluate each potential hand and suggest hold cards to a player to maximize the potential value in the hand. Such an approach causes the problems of auto-hold strategies detailed in the specification, namely annoying certain players.

Unlike Wolf, claims 1, 11 and 21 include the element of distinguishing winning cards from the dealt hand if and only if the dealt hand has one of the award-winning rankings. There is no strategic analysis of a hand, the claimed invention only determines whether the hand is an award winning hand. The Wolf disclosure repeatedly discusses selecting the mathematically optimal or strategically best cards 35 as hold cards. *See* Wolf, Abstract, ¶¶0005-8, 0010, 0028, 0031, 0033, 0036, 0039, 0042 and 0061. Because these are strategies rather than simply identifying winning hands, the mathematically optimal or best cards 35 may or may not form an award-winning hand. *See* FIGS. 4a-b. In fact, there are countless hands where the mathematically optimal hands are selected even where an award-winning hand is not dealt. Wolf does not disclose limiting the automatic distinguishing of cards within a dealt hand only when the dealt hand has one of the award-winning rankings contained therein, as specifically in the claims.

The Final Office Action states that Wolf “explicitly teaches the distinguishing step occurring if the dealt hand includes one of the award winning ranking by teaching a variety of different auto-hold strategies, including a ‘conservative’ strategy that teaches auto-holding cards which are part of an existing winning combination.” However, even this “conservative” strategy is not limited to only distinguishing cards within a hand that contains an award-winning ranking. Under the “conservative” strategy, Wolf would still select the mathematically optimal hands for a player even if the player’s hand does not contain an award-winning ranking. (¶ 044)

The Final Office Action continues by asserted that since Wolf discloses different auto-hold strategies, one strategy could be to define a hold strategy that only holds cards that are part of an award winning hand. The Final Office Action has cited ¶¶ 010-11 and 044-62 for this proposition. These paragraphs merely describe a method for putting together a table with

potential dealt hands and hold instructions to maximize either the value or the chance of obtaining a winning hand to support a hold strategy. The sections cited do not disclose implementing a hold instruction for only winning hands. In fact, all of these tables assume a strategy of holding certain cards when the hand is not a winning hand.

The Final Office Action acknowledges that there is no explicit teaching in Wolf of the claimed technique of holding cards for winning hands alone and to reach the claimed subject matter, an implication must be made from Wolf that such a "strategy" is possible. The Final Office Action has asserted that Wolf discloses at least one scenario to keep all the cards and thus teaches toward a selective hold display since cards do not have to be designated as held each and every time the game is played. This proposition does not anticipate the claims which only hold cards if and only if hands are winning hands. Simply because certain strategies in Wolf may include holding winning hands does not imply that these strategies mandates that no cards will ever be held for non-winning hands. Such a technique would not be consistent with either maximizing hand value or the probability of obtaining a winning hand disclosed in Wolf because either the value of non-winning hands or the probability of obtaining a winning hand from a non-winning hand would always mandate holding certain cards in at least one non-winning hand.

The Final Office Action asserts that Wolf implicitly discloses the strategy of only showing holds for award winning hands. (Final Office Action, p. 7). Nowhere does Wolf disclose, teach, or suggest distinguishing winning ones of the cards in a dealt hand from other ones if and only if the dealt hand has one of the award-winning rankings, as specifically claimed by Applicant. In fact, Wolf specifically teaches away from such an apparatus and method by explicitly and repeatedly reiterating that the gaming device 10 automatically determines which are the mathematically optimal or best cards 35 to hold. As every single dealt hand will have "mathematically optimal" cards 35 to hold, Wolf teaches away from distinguishing cards only if the hand has one of the award-winning rankings. Additionally, the overall purpose of Wolf is to display to a player the mathematically optimal or best way to play a game. *See* Wolf, Abstract. To read Wolf as applying hold indicators to solely award-winning hands, as the Final Office Action states, would undermine the purpose and teachings of Wolf as it would not maximize value of non-winning hands. There is simply no evidence in Wolf of such a motivation to include a strategy of never drawing a card for all non-winning hands. In fact, the other sections

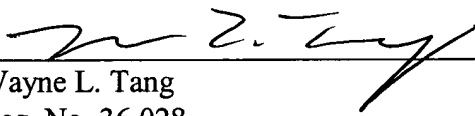
of Wolf teach away from any suggestion. Even under the “conservative” strategy cited by the Final Office Action in ¶ 044, there are situations where holds are supplied for “to maximize the chance of obtaining any winning card combination in the draw” i.e. in non-award winning hands. Further, the sections of Wolf cited by the Examiner to formulate the so called strategies (auto-hold tables), actually indicate that a hold strategy will be created for each situation (i.e. including non-winning hands) (see e.g. ¶ 050 (“each game situation”) and ¶ 052 (applying every possible hold code for each possible outcome)).

Conclusion

If any matters may be resolved or clarified through a telephone interview, the Examiner is respectfully requested to contact the Applicants’ undersigned attorney at the number shown.

Respectfully submitted,

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